

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 UNITED STATES OF AMERICA,

Case No. 2:18-cr-00107-APG-GWF

5 Plaintiff,

6 v.

**ORDER DENYING MOTION TO
RECONSIDER APPEAL OF
MAGISTRATE JUDGE'S DETENTION
ORDER**

7 DEANDRE SPENCER,

(ECF No. 69)

8 Defendant.
9

10 I previously denied defendant Deandre Spencer's appeal of Magistrate Judge Leen's
11 Order of Detention. ECF No. 66. Spencer moved for reconsideration of my order. ECF No. 69. I
12 have reviewed the alleged errors in the prior orders, but I deny the motion to reconsider.

13 Magistrate Judge Leen accepted Spencer's representation that he does not appear in any of
14 the photographs "of other robberies in which Spencer is or was regarded as a suspect." ECF No.
15 59 at 5. So do I. I also disregard the allegation that Spencer was on pre-trial diversion in
16 California as it appears that is not the case. But even disregarding those allegations, detention is
17 warranted.

18 At the time of the detention hearing in January 2018, Spencer had been unemployed since
19 May 2017. He had no assets or income. ECF No. 59 at 5-6. He claims he had been traveling
20 between California and Nevada and living in weekly motels until July 2017 when he began
21 staying with his mother. However, his mother does not know how many children Spencer has,
22 what he had been doing over the prior five years, that he was using painkillers daily, or that he
23 had been in counseling for marijuana use. Also, Spencer self-identified as a gang member.
24 Although he claims he was not active in the gang, it is a risk factor. Magistrate Judge Leen also
25 considered, as do I, the government's proffer that robberies of Walgreens pharmacies in the area
26 of California where Spencer lived stopped after he and co-defendant Tyson moved to Las Vegas.
27 *Id.*
28

1 While the weight of the evidence is the least important factor to consider, it cannot be
2 ignored. The evidence is very strong that Spencer and his co-defendants were "caught in the act"
3 immediately after a robbery of a Walgreens pharmacy and made admissions regarding their
4 involvement. *Id.* As Magistrate Judge Leen pointed out, this was a crime of violence, a factor that
5 also weighs in favor of detention. 18 U.S.C. § 3142(g).

6 I previously conducted a *de novo* review of the evidence and made my own independent
7 determination with no deference to Magistrate Judge Leen. ECF No. 66. Spencer's motion for
8 reconsideration does not cause me to change my mind. No conditions or combination of
9 conditions could be fashioned that would reasonably protect the community against the risk of
10 danger posed by Spencer.

11 IT IS THEREFORE ORDERED that Spencer's motion for reconsideration (**ECF No. 69**)
12 **is DENIED.**

13 DATED this 27th day of July, 2018.



14
15 ANDREW P. GORDON
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28